

# The Topeka State Journal.

10 CENTS A WEEK.

TOPEKA, KANSAS, SATURDAY EVENING, DECEMBER 8, 1894.

TWENTY-SECOND YEAR.

## A NEW TRIAL.

Secretary Osborn is Granted a New Hearing

By the Supreme Court Judges Today.

## IN THE LIBEL SUIT

Brought by Cyrus Leland Against Him.

Reason, Error in Judge Hazen's Instructions.

The supreme court today decided the famous libel case in which Secretary of State Osborn was found guilty in the Shawnee county district court of criminal libel for some statements he made in an interview with a *State Journal* reporter relative to the character of Cyrus Leland, jr., now chairman of the Republican state central committee and candidate for United States senator.

The division of the Shawnee county district court is reversed, and Secretary Osborn is given a new trial on account of a technical error of Judge Hazen in instructing the jury, a majority of the court holding that the jury was not sufficiently instructed in view of the evidence of Secretary Osborn that he did not furnish the statement for publication or wish or intend that it should be published.

All the members of the court held that the information was sufficient to sustain conviction, and the evidence introduced on the part of the state warranted the conviction of the defendant.

Justice Johnston, who prepared the opinion, ruled that the instructions were sufficient and the conviction of Osborn ought to be affirmed.

Chief Justice Horton and Justice Allen ruled that while there was sufficient evidence to convict, yet that the jury being the judges of the credibility of the witnesses the court should have instructed more fully in the line of Secretary Osborn's testimony.

In giving his instructions to the jury Judge Hazen said: "If the defendant furnished his statement for publication, or furnished it knowing it would be published in the paper, then he is guilty as charged."

All of the judges agreed that was all right and Judge Johnston ruled that it was sufficient, but Justices Horton and Allen ruled that having given that instruction he should not have refused to give the following instruction: "The mere fact of communicating a statement to a person known to be a reporter for a newspaper, necessarily accompanied by a request to reduce the same to writing, or to publish the same, is not sufficient to justify the jury in arriving at the conclusion that the defendant either wrote or caused to be written or published the article."

It is because this last instruction was not given that Secretary of State Osborn will have a new trial.

## F. M. HENTIG ARRESTED.

The Grand Jury Indicts Him on a Serious Charge.

F. M. Hentig, a man about 45 years old and a brother of Lawyer F. G. Hentig, was arrested last night on two indictments from the grand jury for alleged criminal relations with Rosa Woody, aged 15, and Nellie Woody, aged 17. Hentig was arrested at his home at 714 Kansas avenue, by Sheriff Burdge. At noon he had been unable to give bond and was in the county jail, the officers refusing to accept his brother's bond for \$500 on each count.

The girls in question are said to be well known by sight to people who are on the streets much. Hentig's friends claim it is a case of blackmail. Mr. Hentig used to run a grocery store in the Bennett block. He is said to have a wife somewhere in the east.

## CHICAGO'S EXCLUSIVE SET.

Enumeration of the 3,300 Who Constituted Chicago's Elite.

CHICAGO, Dec. 8.—Chicago society, the inner circle thereof, is now listed to contain 3,300 men, women and children. This fact is disclosed by the social register, which has just made its winter appearance. The last pages contain the roll of the ninety-six marriages from the really exclusive set, the contracting parties being members of the families named in the catalogue of the haut ton. The book itself is artistically published, with cover in black and red. It has seventy-five pages, giving the names, addresses and club membership of the 3,300, and the titles of the heads of families. It also contains a list of some of the names.

## A NEW KELLY ARMY.

The California Irrepressible Says He'll Do It Again.

SACRAMENTO, CAL., Dec. 8.—"General" Charles Kelly, who led a band of "Indians" from California to Washington last spring, is organizing another army. He has written the latter to the governor of Sacramento assuring him his army does not intend to move upon the state capital.

"The only place we intend to move upon," said he, "will be Grovesville at Washington, and by all that is good and holy we intend to be in Washington again, to keep on camping and marching until we have a bill passed by congress to provide work for unemployed American citizens."

## Sentenced For Burglary.

Two prisoners pleaded guilty to burglary today in the district court. William Halford was sentenced to a year for burglary in the second degree. John Hogan who robbed the house of a colored man in North Topeka and was caught and held until morning, received a sentence of eight years.

## LOOKS LIKE A STEAL.

One-Third More Coal Than Usual Used at the Insane Asylum.

Warden Dick Chase of the state penitentiary, who furnishes coal for all the state institutions, thinks there must be a big leak at the Topeka insane asylum and he was here today to see Governor Leveille about it.

Warden Chase says that during the last two months, October and November, he shipped forty-three car loads of coal to the Topeka asylum and still the managers of affairs at the asylum have been crying for more coal. To a *State Journal* reporter he said:

"We have been having unusually large orders from the asylum and I don't understand it. A few days ago I received a telegram from Steward Butler ordering twenty car loads of coal at once. We sent him all we could, and shipped part of it over the Santa Fe and part over the Union Pacific to avoid delay. A few days after we made this shipment I was called up to the telephone by Governor Leveille, who said they were suffering for coal out at the asylum, and I plainly told him about the enormous amount of coal we have been shipping that institution."

"There must be a leak out there as we have shipped them one third more coal during the last two months than was ever shipped to that institution during any corresponding months, and we have had no cold weather either. Steward Butler says it takes one car load a day to supply the institution, but if it takes that much to keep warm in winter, like this, they won't be able to shovel in enough to keep from freezing in January."

Warden Chase and Governor Leveille were in consultation about this matter today and Steward Butler has been ordered to make out a statement of the coal received and how it was used since October.

## CAWTHORN PRAISES HER.

The Popular Comedian Says the New Star, Gladys Wallis, is a Wonder.

The Parti Mosa company arrived in town today about noon.

Perhaps the best known member of the company to Topeka people is Joe Cawthorn, the German dialect comedian. He had been looking at Gladys Wallis all the morning—they are both Eiks. He will star next season under Manager Dun of this company and has signed a starring contract with him for five years. He is very much in love with Miss Wallis (the star's) work and predicts great things for her.

There is one thing about Miss Wallis, he said. "She is too good for sourette parts. Her mind and her soul and her art are above that, but unfortunately nature has given her a size that will admit of nothing else. She would make the most successful Juliet the world has ever known if she could be made up to it, but she is too small. She could never make a big success to Miss Rosa's lines because the abilities of the two are so widely different. Miss Rosa was a pantomime, in fact a clown—with the greatest respect for the dear little woman, for we all loved her, but she never had the making of the actress. Miss Wallis will be, she could stand on the stage and tell you exactly what she wanted to without speaking a word. On the other hand Miss Wallis has some lines in the play tonight that Miss Rosa could never have said."

Cawthorn is the great concertina man. He learned the instrument from the working men of London when he was three or four years ago, as a boy, and used to play with them in the factories out of work hours. He afterwards studied under other people and is now considered the best concertina player in the company, if not in the world. He will play tonight.

## SENSATIONAL CHARGES.

Papers Filed to Disbar County Attorney Boone at Wichita.

WICHITA, KAN., Dec. 8.—This morning Attorney W. J. Skilton filed papers in the district court to disbar County Attorney William Boone. Skilton charges that Boone has been systematically filing suits against liquor men and then settling cases out of court, afterwards K. K.'s bills and makes the county pay costs.

He recites the fact that while drunk one Sunday afternoon, Boone forced the liquor man to open his place in defiance of police orders to keep it closed, and then defied officers to arrest him. City Detective Woods struck the county attorney and threw him out of the house into a gutter. Cases brought in justice courts were settled before they could be appealed, and Boone is alleged to have pocketed the money thus raised.

Gambler and saloon-keeper, it is said, have had to put up for his drinks and excursions to other places under threats of prosecution if they refused to do so. The paper is very sensational throughout. Yesterday Boone met Skilton by appointment and thrashed him. The affair has created the biggest sensation of the year.

## BALLINGT'N BOOTH BETTER

Hope Is Entertained That the Commander May Recover.

CHICAGO, Dec. 8.—Commander Ballingt'N Booth, who has been suffering for the last fortnight from nervous prostration, caused by overwork, is now convalescent.

Efficient nursing and tender care at the home of Brigadier Fielding, have caused the rapid changes for the better. The news was received with exultant gladness at the Princess rink, where prayers for his recovery have been offered during his illness.

## Gov. Altgeld Goes to Hot Springs.

SPRINGFIELD, ILL., Dec. 8.—Governor Altgeld has been looking and feeling bad for several days and last night left for Hot Springs, Ark., accompanied by Mrs. Altgeld. They will be gone for an indefinite time, the governor not having decided the length of their stay.

## No More Students' Fees Now.

The supreme court today gave its decision granting a temporary restraining order to restrain the regents of the state university from collecting the law library and laboratory fees from students of that institution until the case is heard on its merits by the court.

## HAVEMEYER'S TRICK.

How He and His Coadjutors Worked Wall Street.

Made Millions While Declaring Sugar Industry Bankrupt.

## ARE ALWAYS WINNERS

Havemeyers Have Manipulated Stocks for Immense Gains.

Pretending All the While Ill Treatment by Congress.

NEW YORK, Dec. 8.—The most heartless trick yet played on the people of this country has reached a climax on the stock exchange. H. O. Havemeyer, the president of the sugar trust, and his friends have finished their game and pocketed their immense gains, thought to reach into the millions. For weeks Mr. Havemeyer proclaimed that the sugar industry was practically on the edge of bankruptcy; that it was rapidly succumbing to the ill-treatment he alleged it had received from congress, and finally made his bold stroke of pretending to discharge all hands from the sugar refineries of the trust and talked of closing those vast hives up for an indefinite period.

The price of 70 or 75 was whispered as the proper figure to which sugar should slump, and it started towards that point at a rapid gait. There was a strong opposition, however, and it reached a low turning point at 52, and then for several days there were cleverly scattered points about a reduction of quarterly dividend, which was due about this time. The managers then got together to decide on the dividend. While they talked and talked the floor of the exchange bore evidence to the fact that a big following of brokers had been let into the secret of just what the sugar managers were going to do. There was some talk of opposition to the Havemeyer plan, but none of the managers would talk.

The fact is that after the full day had been used by Havemeyer through his well-posted brokers, and sugar had climbed to 89 on transactions of about 175,000 shares, or nearly half the entire common capitalization of the trust, came the voice from the board-room that the dividend should remain as at present, 7 per cent per annum on the preferred and 12 per cent on the common.

The gigantic turn had been made, and the country now sees a 12 per cent stock selling at less than 90, while on 8 per cent stock, such as the New York, New Haven and Hartford, is quoted at 193. Havemeyer and his co-monopolists have been working the market as well. It is said that they hold a majority of the common stock. This big batch dived out to the street at 115 or better and gathered in at 80 or better, would yield a net profit of \$30 per share, or a scoop of about \$5,000,000.

A monopoly which admits of a speculative profit of millions in a few months in these times, even without legislative assistance, is a very fine bird to work out of the way as representing what sugar has brought to the Havemeyer people.

## Contempt Case Against Havemeyer.

WASHINGTON, Dec. 8.—The case of President Havemeyer and Secretary Searies of the American Sugar Refining company, Broker Seymour of Seymour Bros. & Young, and Correspondents E. J. Edwards and John S. Shriver, indicted for refusing to testify before the sugar trust investigation committee were called in the district court today. The arguments in the cases of all but the newspaper men were postponed until December 22.

## THINKING ABOUT ACTING.

Kobites Still Talking About Going to Do Something.

MONTGOMERY, ALA., Dec. 8.—A secret caucus of Kolb's friends here last night was attended by nearly all the Populist leaders in the state. Some of Kolb's adherents wanted to precipitate matters and send Kolb as governor, but this was strongly opposed. Finally the following compromise resolution was adopted, and it may be taken as the sense of the meeting:

Resolved, That we act inside of the law until the present session of the legislature closes, and if a fair election law is passed as well as a fair contest law, by which the last state election can be fairly contested, that we will stand by the result in the contest, but if the legislature shall fail or refuse to pass the two acts above referred to, or shall pass any oppressive law, then we shall call upon the chairman of our state executive committee to call a state convention to consider the situation and adopt some line of action by which we shall have our rights.

## ASK ITS SUPPRESSION.

Twenty-Nine People Sign a Petition Against a Disorderly House.

The city clerk has received a petition containing twenty-nine names of people who live on Jackson street, asking that some action be taken to abolish an alleged disorderly house at 210 Jackson street.

Neither the mayor nor council can do anything in the matter. It belongs to the police, but the police have a confirmed habit of overlooking these houses, and the people hoped the council might do something to rid them of the disreputable place.

## Makes Speaker Governor Pro Tem.

SPRINGFIELD, ILL., Dec. 8.—Governor Altgeld has gone to Hot Springs, Ark., for his health. The lieutenant governor is in California. This makes Clayton E. Crafts, speaker of the house, governor pro tem. Crafts is at Austin, Cook county, and unaware of his importance.

## PERSONAL AND POLITICAL.

Noble Prentiss is soon to lecture in Topeka on "Art for the Artless."

There will be fifty-nine Populist votes in the legislature on joint ballot.

Referendum Sullivan addressed about 100 people at the court house last night.

Dr. Buckley says he objects to more than two preachers officiating at a funeral.

The best paid clerks in the Santa Fe offices are those in the general freight office.

Col. Fred J. Close has returned from Texas and is at his desk in the executive office.

Col. J. W. F. Hughes seems to have an almost clear field in his desire to be adjutant general.

Mrs. A. H. Horton, wife of the chief justice, is at Winfield attending the suffrage meeting.

John R. Mulvane wants the police commissioners abolished because they cost too much.

Ex-Gov. George T. Anthony is said to be nursing a senatorial boom in a quiet way down at Ottawa.

District Attorney W. C. Perry is one of the few Democratic politicians who stop at the Copeland.

Prod Close says there are a 100 teams at work on his railroad between Port Bolivar and Beaumont, Texas.

Dr. S. McDonald, of Buffalo, New York, who is to speak at the itinerants' club meeting, was raised a Catholic.

Colonel J. C. Gordon has had some new bell boys in training for a week past. He is getting ready for the legislature.

Congressman Curtis is working for an appropriation of \$120,000 for an additional public building for Topeka.

There is to be a fight against too many women being employed as enrolling clerks in the legislature this winter.

Governor Leveille has been invited at a rapid gait. There was a strong opposition, however, and it reached a low turning point at 52, and then for several days there were cleverly scattered points about a reduction of quarterly dividend, which was due about this time. The managers then got together to decide on the dividend.

Deputy Sheriff Hickey looks just like a picture of Henry W. Longfellow which is displayed in a Kansas avenue window.

Stenographer Al Evans of the Santa Fe passenger office has gone to Columbus, Ohio, and Chicago. He will be gone a week.

Major C. Hood, who is considered the leading candidate for United States senator, once worked in a copper mine near Adrian, Mich.

Mr. J. V. Beekman, who wants to be speaker of the next house, was a Campbellite preacher in Illinois before he came to Kansas.

Col. W. P. Tomlinson says a well known Topeka minister is in full sympathy with the re-submission movement. Who is he?

Col. Geo. W. Veale has prepared a bill for the completion of the state house, and he estimates that it will take half a million dollars to do it.

Fox Winslow of Newton, has been elected a member of the board of directors of the north and south railroad to succeed E. E. Carpenter of South Dakota.

According to Col. Fred J. Close his railroad directors have secured control of over two million dollars which will enable them to build their road.

A man called at the bank commissioner's office yesterday and asked for a copy of S. S. King's "Seed Time and Harvest." He got what he wanted.

Two years ago each member of the state senate, forty in all, voted himself a clerk at \$3 a day when ten clerks could do all the work of all the senate committees.

Col. H. L. Moore, who is occupying the seat formerly held by Farmer Funtston, has been made a member of the committee on expenditures for public buildings.

Lieutenant Governor Percy Daniels, who lives at Girard, Auditor Geo. Cole's town, is here looking after military matters. He is brigadier general of the National guard.

A letter from V. H. Biddison, the Populist preacher, announces that he has not left the state and that he will be here shortly as a candidate for re-election as chaplain of the senate.

Rev. R. Wake last night distributed copies of the anti-re-submission resolution adopted by the Ministerial union at the itinerants' club and the club adopted the resolution as its own.

Rev. J. M. Sullivan, of Baldwin, who has been here this week attending the meeting of the itinerants' club, is a candidate for the legislature, and says his prospects are most encouraging.

Adj. Gen. Davis thinks the legislature this winter should make some provision for caring for the battle flags in his office. Some of them are in bad condition and unless cared for in some way soon they will fall to pieces.

W. T. Jackson of Topeka wants to be secretary of the State Horticultural society which pays \$1,000 a year. The annual meeting of the society and election of officers will occur at Fort Scott next week, beginning Tuesday.

Dr. J. M. Buckley tells of a man who gave him his reason for writing his sermon, that he did not want the people to know what he was going to talk about. "Why," he said, "even the devil himself does not know what I am going to say."

Rice county wants her share of appointments under the coming administration. H. C. Taylor wants to be railroad commissioner; J. C. Jordan, sergeant-at-arms of the house; H. L. Millard, chief clerk of the house; Ira Bundy, chaplain of the penitentiary; and four other men want places of some kind.

No Pensions for Comfortable Widows. WASHINGTON, Dec. 8.—The pension bureau will hereafter refuse pensions to widows whose income from other sources, added to the proceeds of reasonable effort on their part, affords them comfortable support. This policy is provided for in ruling of Assistant Secretary Reynolds based on the June 27, 1890, act.

## PASSES MUST GO.

Indiana Sees the Light and Will Take Steps

To Make All Public Officials Give Up Passes.

## HAS BECOME AN EVIL.

In Indiana All Town and County Officials

Have Passes and Are Influenced Against the Public Weal.

INDIANAPOLIS, Dec. 8.—Among the laws which the legislature may be called upon to enact is an anti-pass law. The advocates of this measure would make it a punishable offense for any public official to accept a pass from a railroad company. The custom of taking passes from railroads is general among town, county and state officers in Indiana.

Implied reciprocity is alleged. When a railroad company is asked to station flagmen at crossings in a town and the affair is taken before the common council it is alleged that the tendency of the councilmen with a pocket full of passes is to fail to see the necessity of such action.

The average town and county officer does not travel much upon his passes in a year, and the railroads find pass-giving a good investment. The system of giving passes is extended to the state officers. Even the state tax commissioners are offered and some accept passes from the railroads.

MISS GING'S MURDERER.

The Police Are Sure They Have Him in Custody.

MINNEAPOLIS, Dec. 8.—Adry Hayward has made a confession. Harry T. Hayward planned the murder of Miss Catherine Ging and C. A. Bixt, engineer of the Ozark flats, committed the bloody deed. That, at least, is the theory of the police. Bixt was arrested early this morning and locked up in the central station.

The officers themselves are not entirely satisfied just how the murder was committed. They are, however, satisfied that they have the right parties in custody.

None of the officers would state this morning their theory as to how Miss Ging was induced to take a carriage ride with a man so low down the social scale as Bixt. They did not even attempt to explain how it was that she had taken three rides.

Adry Hayward's confession is only as to the events preceding the murder.

## AFTER THE GAMBLERS.

A Civic Federation is Being Formed at Pana, Illinois.

PANA, ILL., Dec. 8.—The Christian county grand jury indicted seventeen prominent citizens of Pana for gambling and suddenly adjourned just as similar cases were to be brought to its attention from Taylorville and Morrisville.

There was also a sensational case from Pana about to be sprung when that body adjourned after being in session but a few days. The Pana gamblers will pay a fine of \$30 each. A civic federation is forming and other reforms will be agitated.

## EXONERATES NICHOLSON.

Guy Pier Says Jnd Nicholson Was Too Drunk to be to Blame.

Guy Pier, who has just been sentenced to a year in the penitentiary for breaking into the rear door of Green & Kale's store about two months ago, takes a philosophic view of the situation. He swears he will be "a man" when he gets out.

"What makes me feel the worst about the whole business," he said today, "is that Jnd Nicholson is likely to get in it, too. He says he is going to plead guilty but I don't see how he can, because I don't believe he remembers a thing about it. We were all too drunk to know what we were about and Jnd would have done anything we told him to. He isn't in the least to blame. I have known him for a long time and I know he wouldn't do such a thing for anything, if he hadn't been too drunk to know anything about it."

"Stenman and I don't need much sympathy. It's different with Jnd. He takes it terribly to heart, and I believe the two months he has spent in jail have added 10 years to his life. He wouldn't have got drunk that night if he had been left alone."

Anti-Toxine's Good Results. SAN FRANCISCO, Dec. 8.—The first trial in this city of anti-toxine cure for crop and diphtheria, is in progress and the results thus far encourage hope of the success of the new remedy. Hypodermic injections on a child produced a remarkable change in its condition, but Dr. Deercall says it will be necessary to wait the normal period to complete the apparent cure.

China Appoints a Fence Envoy. WASHINGTON, Dec. 8.—Information has reached here that the Chinese government will appoint an ambassador to proceed to Japan to treat for peace. It is expected that Count Ito, and in all probability Mr. Matsui, the Japanese minister of foreign affairs, will represent the Japanese government in the negotiations.

A Hanging at Kansas City. KANSAS CITY, Dec. 8.—Philip Martin, the murderer of Eli Stillwell on July 4 last, who was to have been hanged December 13, has been respite by Governor Stone until January 15.

Ground Broken for Yerkes Telescope. CHICAGO, Dec. 8.—Ground has been broken at Lake Geneva, Wis., for the erection of the Yerkes telescope. The altitude of the site is 1200 feet above the sea and 530 feet above Lake Michigan.

## NOT LEGAL VERBIAGE.

How a Lawyer's Paper Sounds When the "Aforementioned" Are Dropped.

The following unique answer has been filed in the district court by Vance & Campbell in an action in which the National Life Insurance company is attempting to foreclose a mortgage on the Buoge flat on Crane street:

"And now come said defendants and for their answer in this action say they are surprised that plaintiff should jump onto them with a foreclosure action for such a trifling omission as their failure to pay their semi-annual interest, especially when the fact is considered that they are unable to get enough out of the notorious 'data' to pay 'running expenses.'"

"Oh! for a lodge in some vast wilderness! where corporate oppression might never reach its shore!"

"Come to think of it: 'First-Plaintiff is not the real party in interest in the prosecution of this action. Besides for a

"Second defense—It agreed with these defendants to extend the time of the payment of the two interest coupons issued on in this action till the principal note became due by its own terms. See.

"Wherefore defendants will overlook plaintiff's mistake this time and permit it to dismiss its action. But if it persists in prosecuting its action defendants pray judgment against it for costs of suit and proper relief."

## WILL LISTEN TO ALL.

Finance Committee Will Listen to Financial Views of all Sections.

WASHINGTON, Dec. 8.—Care is being taken to have all sections of the country heard from before the house banking and currency committee meets next week, concerning the proposed currency system. Chairman Springer is not confining his invitations to eastern financiers. He has sent to Chicago, St. Louis, Cincinnati as representative western cities, and to Nashville, Tenn., and other southern cities. He would go as far as Denver and San Francisco if people in these sections could but get here in time for the hearing.

Care is also being taken to secure only those recognized as authorities in practical financing—such men as Lyman J. Gage of Chicago—being among those invited.

The hearing of Secretary Carlisle and Comptroller Eckels on Monday is attracting much attention, and there promises to be such a crowd present that the large room of the ways and means committee will be used. On Tuesday ex-Comptroller Hepburn and Mr. Horace White of New York will have an opportunity to be heard on the merits of the so-called "Baltimore plan." It is understood that the committee that Mr. Hepburn is the original projector of this plan.

## MEANS GOVERNMENT OWNERSHIP.

If Congress Doesn't Act on Pacific Railroad Cases That is Sure.

WASHINGTON, Dec. 8.—Representative McGuire of California will make a vigorous opposition to the effort to take up the Pacific railroad funding bill. He will also contest the measure on the floor if Chairman Reilly succeeds in having Speaker Crisp fix a time for the bill before the holidays.

"The main object of the pending bill is that it extends for fifty years the absolute dominion of the Pacific roads over the traffic of the great west," he said.